IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 33072 of 2007(K)

OS.207/2004 of MUNSIFF COURT, THALASSERY
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PETITIONER:

T.P.MOHANAN, S/O.ANANDAN, AGED 52
YEARS, 'SHIMEES', KODIYERI AMSOM DESOM,
THALASSERY TALUK.

BY ADV. SRI.C.P.PEETHAMBARAN

RESPONDENT:

K.M.SASIDHARAN, S/O.KUMARAN,
THAYYIL POYIL HOUSE, KODIYERI AMSOM DESOM,
THALASSERY TALUK.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.33072 of 2007

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Dated this the 7th day of November, 2007.

JUDGMENT

This Writ Petition is filed against the order of the Munsiff, Thalassery in dismissing an application for review. Suit O.S.No.207 of 2004 was rejected under Order 7 Rule 11 of C.P.C. for non-payment of court fee on 4.12.2006. It is submitted by the learned counsel for the writ petitioner that there was some delay and therefore on 3.1.2007 immediately after the reopening of the court after X'mas holidays court fee was paid and an application was filed for reviewing the order of rejection of the plaint. Now the power to review when a plaint is rejected under Order 7 Rule 11 of C.P.C. is covered by the decision of this Court reported in **Felix Varkey** v. **Municipal Secretary** - 2006(4) K.L.T. S.N. 46.

2. It is true that there is no error apparent on the face of the records and equally true that in spite of due diligence the plaintiff was not able to produce any materials before the court.

So the only point that survives for determination is whether there is any other sufficient reason. The plaintiff is a person who has come to the court for getting relief. It is true that there is a small laches on his part in not paying the amount in time. Therefore, I feel that the principles of substantial justice requires in such cases an opportunity to be given to the party and I find that the said principle is a sufficient reason for granting time to the plaintiff to pay court fee and review the order.

3. Therefore, the order under challenge is set aside and the review application is allowed and the court below is directed to restore the suit to file and then dispose of the matter in accordance with law after permitting both parties to adduce evidence.

Writ Petition is disposed of accordingly.

M.N.Krishnan,
Judge.

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